

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MARION GOODING,)	
)	
Plaintiff,)	
vs.)	Case No. 10-CV-131-TCK-FHM
)	
STATE OF OKLAHOMA, et al.,)	
)	
Defendants.)	

**UNOPPOSED MOTION TO STAY PENDING DETERMINATION OF PENDING
MOTIONS TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION**

Come now the Defendants, Cherokee Nation Entertainment, LLC, the Cherokee Nation and John Ketcher, and by this unopposed Motion request the Court to stay proceedings on the merits and excuse the parties from filing a joint status report until the Court determines the Motions to Dismiss for Lack of Subject Matter Jurisdiction filed by these Defendants. As grounds for this Motion, these Defendants show the Court that:

1. On May 21, 2010, Defendant CNE and Defendants John Ketcher and the Cherokee Nation filed their Motions to Dismiss the First Amended Complaint for Lack of Subject Matter Jurisdiction.

2. As a result of the conference among counsel pursuant to the Court's order of May 25, 2010, directing the parties to file a joint status report, the issue of abating merits proceedings until jurisdictional motions are determined arose.

3. The parties recognize that lack of subject matter jurisdiction protects a party from merits discovery and proceedings. *See Liverman v. Comm. On the Judiciary*, 51 Fed. Appx. 825, 827-28 2002 WL 31379892, *2 (10th Cir. 2002) (unpublished); *Hansen v. PT Bank Negara Indon.*, 601 F.3d 1059, 1063 (10th Cir. 2010); and *Federal Ins. Co. v. Richard I. Rubin & Co.*, 12 F.3d 1270, 1281 (3rd Cir. 1993)

4. Staying merit proceedings only as to defendants who have subject matter jurisdiction motions while allowing merits discovery proceedings to go forward as to the other defendants could result in significant inefficiency and expense, such as retaking of depositions.

5. The Plaintiff and other Defendant, Scott Walton, do not object to this Motion.

6. All parties requested expedited treatment of the pending Motions to Dismiss for Lack of Subject Matter Jurisdiction of Cherokee Nation Entertainment, LLC, the Cherokee Nation and John Ketcher.

WHEREFORE, the Defendants Cherokee Nation Entertainment, LLC, the Cherokee Nation and John Ketcher request this Court to enter its Order granting their Unopposed Motion to Stay Pending Determination of Pending Motions to Dismiss for Lack of Subject Matter Jurisdiction.

Respectfully submitted,

**HALL, ESTILL, HARDWICK, GABLE,
GOLDEN & NELSON, P.C.**

s/Graydon Dean Luthey, Jr.

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AND

s/Sara E. Hill

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**ATTORNEY FOR DEFENDANTS JOHN
KETCHER AND THE CHEROKEE
NATION**

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of June, 2010, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of Notice of Electronic Filing to the Following ECF registrants:

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/S/ Graydon Dean Luthey, Jr.